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January 30, 1995

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Regina M. Keeney, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Mail Stop 2000
Washington, D.C. 20554

Re: Petition of the State of California and the Public Utilities Commission of the State of California to Retain Regulatory Authority over Intrastate Cellular Service Rates, PR Docket No. [redacted]

94-103

Dear Ms. Keeney:

GTE Service Corporation ("GTE") is concerned that the Bureau's Order released on January 25, 1995 in PR Docket Nos. 94-103, 105, 106, and 108 ("Order") will have an unintended but dramatic chilling effect upon future negotiations at the Commission.[1] Given Staff's avowed intention to rely on settlement negotiations to reduce the Bureau's caseload, any action that would reduce the effectiveness of the negotiations process is unfortunate.

GTE has been actively involved in PR Docket 94-105 since its inception. Although GTE had been vocal in its objections to Confidential Agreements and the relevance of the CPUC's redacted information, GTE and five other parties (the "Six Parties") endorsed a compromise proposal which would be applied to all parties to the proceeding, and which would allow the majority of the disputed information to be made available pursuant to a Protective Order. This compromise proposal was provided to the Bureau as an attachment to a letter filed with the Commission on December 22, 1994. See letter of D. Gross and K. Abernathy, counsel for Airtouch, filed in PR Docket No. 94-105 on December 22, 1994 (signed also by counsel for BellSouth Cellular

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[1] GTE is filing this letter in lieu of a petition for reconsideration because GTE is cognizant of the statutory deadline which the Bureau must meet in resolving this matter.

Corporation, CCAC, L.A. Cellular, GTE, and McCaw) (the "December 22nd Letter").

Unfortunately, the Order seizes upon the December 22nd Letter as the linchpin for its determination that the ". . . six acceding parties have withdrawn any claims for confidential treatment for naterials [sic] in Group A." Order, page 3, paragraph 4. This is incorrect. The Six Parties were floating a proposal that would be applied to all parties in the proceeding. That the Bureau transmuted that proposal into a waiver of the parties' rights is as unfair as it is chilling to the negotiations process. As a result of the Order, the Six Parties which struggled to arrive at an equitable docket-wide resolution were singled out for different treatment. Such action is deleterious to the negotiations process as it removes the incentive to suggest innovative solutions and replaces that incentive with an absolute reticence to proffer suggestions.

In the interest of clarity, GTE also wishes to point out a typographic error which could produce confusion. Paragraph 17 of the Order erroneously describes per-subscriber financial information and subscriber growth percentages which were found in Exhibit H as "(the Group C materials)." when in actuality that information is the Group A information as described on page 7 of the Order.

GTE concurs with the Bureau that disclosure of information can have an adverse impact on carriers. Order, page 17, paragraph 24. However, GTE does not believe that carriers should be subjected to this significant risk in order to afford a Petitioner, that was put on notice of its high evidentiary burden by the clear language of both the Omnibus Budget Reconciliation Act of 1993[2] and Section 20.13 of the Commission's Rules,[3] a second opportunity to substantiate its conclusory statements.

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[2] Pub.L.No. 103-66, Section 6002(c)(3), 107 Stat. 312, 394 (1993) (codified at Section 332(c)(3) of the Communications Act of 1934, 47 U.S.C. Section 332(c)(3)).

[3] 47 C.F.R. Section 20.13.

Sincerely,

William J. Sill
Counsel for GTE Service Corporation,
on behalf of its Telephone and Personal
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